



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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M.G., et al.,

Plaintiffs,

- against -

NEW YORK CITY DEPARTMENT OF
EDUCATION, et al.,

Defendants.
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13 Civ. 04639 (SHS) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This Order addresses the issues raised by State Defendants in the parties' joint letter dated September 14, 2020 (Dkt. 315). The issues are resolved as follows:

1. State Defendants' representations that they have not located any other responsive documents; have not "withheld any responsive materials on the basis of privilege or otherwise"; and have "produced all documents in their possession, custody, or control that they deem responsive to Plaintiffs' discovery requests" are sufficient subject to the Court's understanding that "or otherwise" means "or any other objection asserted by State Defendants." If that is not what State Defendants mean, then State Defendants shall so notify the Court no later than **September 23, 2020**. For similar reasons, the Court finds State Defendants' responses to individual requests set forth in its letter of August 17, 2020, to be sufficient.

2. By **September 30, 2020**, State Defendants shall provide a letter to Plaintiffs stating whether State Defendants have withheld any documents on the basis of any objections to any and all of Plaintiffs' 64 document requests not addressed in State Defendants' September 23, 2020 letter. State Defendants need not address each request

individually, except to the extent State Defendants have withheld documents on the basis of any asserted objection to that request, in which instance, State Defendants must identify the documents withheld and the basis for doing so. State Defendants must further represent whether they have produced all non-privileged documents within their possession, custody, or control that are responsive to the requests, again addressing specifically only those requests for which State Defendants' representation is that they have not produced all such documents. State Defendants need not identify the Bates numbers of documents that are responsive to individual requests.

3. By **September 21, 2020**, State Defendants shall provide to Plaintiffs a list of custodians from whom non-ESI documents have been collected.

4. By **September 23, 2020**, Plaintiffs shall respond to State Defendants' draft ESI protocol, including with respect to State Defendants' proposed custodians and search terms. The parties shall then meet and confer in good faith to arrive at an agreed-upon protocol. The Court notes, however, that Plaintiffs are correct that it was incumbent upon State Defendants to propose the custodians and terms for collection of ESI from State Defendants.

SO ORDERED.



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: September 16, 2020
New York, New York

Copies transmitted to all counsel of record.